

**BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

In the Matter of Evergy Kansas Central and )  
Evergy Metro Filing Tariff Revisions to ) Docket No. 21-EKCE-318-TAR  
Limited Large Customer Economic )  
Development Discount Rider (LEDR). )

**CURB'S RESPONSE TO STAFF'S REPORT AND RECOMMENDATION**

COMES NOW, the Citizens' Utility Ratepayer Board ("CURB") and hereby files its response to the Staff of the Kansas Corporation Commission (Staff) Report and Recommendation, which was filed on March 19, 2021. CURB states as follows:

1. On June 1, 2020, Senate Substitute for House Bill 2585 (HB 2585) was signed into law by Governor Kelly, and made effective on July 1, 2020.<sup>1</sup> HB 2585 gives the Kansas Corporation Commission (Commission) the authority to approve special contract rates and discounts outside of a general rate proceeding according to specific criteria and requirements, and to implement economic development rate schedules for new and expanded facilities of certain industrial and commercial customers.<sup>2</sup>

2. On February 22, 2021, Evergy Kansas Central, Inc. and Evergy Kansas Metro, Inc. (collectively Evergy) filed an application with the Commission with a request to approve Evergy's proposed tariff for its Limited Large Customer Economic Development Discount Rider (Schedule LEDR) (LEDR tariff).<sup>3</sup> The tariffs for each territory (i.e. Kansas Central and Kansas Metro) are identical and set out the conditions and qualifications for commercial and industrial customers to

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<sup>1</sup> HB 2585 has been codified into Kansas statutes as K.S.A. 66-101i and 66-101j. For consistency purposes, CURB will be referring to HB 2585 as a whole throughout its analysis.

<sup>2</sup> Senate Substitute for House Bill No. 2585, pg. 2 (June 1, 2020). Accessed at [http://www.kslegislature.org/li\\_2020/b2019\\_20/measures/documents/hb2585\\_enrolled.pdf](http://www.kslegislature.org/li_2020/b2019_20/measures/documents/hb2585_enrolled.pdf).

<sup>3</sup> *Tariff for Evergy Kansas Central Inc.*, Docket No. 21-EKCE-318-TAR (LEDR Tariff) (February 22, 2021).

meet in order to receive a discount on the standard electric rates as contemplated by HB 2585.

3. On February 25, 2021, CURB filed its Petition for Intervention. On March 2, 2021, the Commission granted CURB intervention in the docket.

4. On March 19, 2021, Staff filed its Report and Recommendation (R&R) with its analysis of HB 2585 and Evergy's proposed tariffs.<sup>4</sup> Staff compared the language of HB 2585 to the tariff to review Evergy's compliance with the bill. Staff concluded that the proposed tariff's language complied with HB 2585 by mirroring much of HB 2585's language. Staff examined Evergy's use of certain definitions and determined that the proposed changes were mostly consistent with other tariffs and Kansas statutes, but recommended minor changes to the language. Staff then reviewed the LEDR Tariff's "Applicability" section for consistency. This section discussed Evergy's procedure for maintaining a granted discount and metering for certain new buildings and operations.<sup>5</sup> Staff concluded that this section, along with the rest of the tariff, were internally consistent as well as compliant with HB 2585 and recommends that the Commission approve the LEDR tariff.

5. Staff also recommends that the Commission require that confidential compliance filings be made in the instant docket whenever a new customer receives a discount or when said discount changes.<sup>6</sup> Staff stated that this requirement will aid Staff in its biannual report to the Kansas Legislature as required in Subparagraph (g) of HB 2585. Per Staff's recommendation, these filings would be available for review by any intervenor in the instant docket. Staff envisions this docket to be a vehicle for any further requests for information, such as but not limited to changes

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<sup>4</sup> *Notice of Filing of Staff's Report and Recommendation*, (March 19, 2021) (Staff's R&R).

<sup>5</sup> *Id.* at pgs. 5-6.

<sup>6</sup> *Id.* at pgs. 6-7.

in aggregate load, amount of subsidy, and rate impact.<sup>7</sup> For each new discount granted by Evergy, Staff requests that the compliance filings contain the data and information used to qualify a customer for the discount under the LEDR tariff, and the effective date of and percentage amount of the discount be submitted. Additionally, Staff requests that Evergy file reports every twelve months after a new discount is implemented or when one is terminated regarding: any recent or upcoming change in the discount (including termination of a discount), as well as any data or other reasoning used to justify said change; annual load information, including change in load from the prior year; and amount of subsidy since last filing.

6. CURB has reviewed the proposed tariffs and Staff's R&R from the perspective of residential and small commercial ratepayers. At the onset of this analysis, CURB believes it is important to highlight two points regarding the topic of economic development discounts. First, residential and small commercial ratepayers are not eligible to receive this discount from Evergy. However, the lost revenue associated with the discount will be spread across these customers after Evergy's subsequent general rate case. CURB certainly appreciates the potential economic benefits that stem from increased business operations in Kansas which lay at the crux of the authorization of these discounts. To that end, CURB believes that these discounts must be offered in accordance with the parameters set out in HB 2585 and after careful consideration of the benefits and impacts for all Kansans. The second point is that HB 2585 prevents the Commission from modifying or eliminating any rates approved for a special contract under this section during the term of the contract aside from what is specified in the bill.<sup>8</sup> Indeed, these considerations are

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<sup>7</sup> *Staff's R&R* at pg. 7.

<sup>8</sup> HB 2585 at pg. 2, Subsection (e).

articulated within HB 2585 regarding special contracts.<sup>9</sup> To CURB, these two points emphasize the importance of a robust and transparent process to implement and evaluate these discounts.

7. CURB agrees with Staff's analysis of the tariff's language and Evergy's proposed process for metering certain facilities receiving the discount. CURB compared the tariff's language with HB 2585 and also concludes that the proposed tariffs are consistent with HB 2585. CURB also agrees with Staff's edits to the Definition section for consistency with Evergy's terminology. CURB has no objections to Evergy's proposed method to use historical rates and estimations as described under the "Applicability" section of the tariffs. This section appears to be consistent with HB 2585 and reasonably addresses circumstances where acquiring meter data is difficult.

8. CURB is supportive of Staff's recommendation to require confidential compliance filings when a new customer receives a discount or when a discount changes. Such filings would necessarily improve the process through which the KCC and stakeholders review the use of these discounts by establishing a predictable reporting schedule. To enhance the value of these filings for aid in the biannual legislative filings, the Commission should interpret Staff's requests for information to be sufficiently broad enough to gather as much relevant information as practicable. CURB recognizes the risks associated with the disclosure of business-sensitive information. However, CURB is confident in the Commission's established practices and authority to protect this kind of information from unauthorized usage. K.S.A. 66-101c already requires the publishing and filing with the Commission copies of all schedules of rates and the furnishing of all rules and regulations and contracts between public electric utilities pertaining to any and all jurisdictional services. CURB interprets this requirement to also apply to the special discounts contemplated by

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<sup>9</sup> See HB 2585 at pg. 1, Section 1, Subsection (b).

HB 2585. Just as the data and information associated with rates from a rate case are made available to intervenors, so should too the information behind the decision to grant a discount from those same rates.

9. CURB further recommends that the Commission not limit these types of filings to only this docket. Similar to other special contracts in the past, CURB contemplates that each new customer that receives a special discount from Evergy will request its own separate docket to collect customer-specific information. While Staff envisions this docket as a vehicle for additional information requests and a means for intervenors to review data, confidentiality concerns may warrant the use of separate dockets. In any event, in whatever form these filings take, CURB believes that reasonable collection and access to information is vital to realize the benefits associated with these discounts.

WHEREFORE, CURB respectfully requests that the Commission adopt Staff's recommendations to approve Evergy's proposed LEDR tariff, with the modifications as laid out in Staff's R&R and CURB's response.

Respectfully submitted,




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David W. Nickel, Consumer Counsel #11170  
Todd E. Love, Attorney #13445  
Joseph R. Astrab, Attorney #26414  
Citizens' Utility Ratepayer Board  
1500 SW Arrowhead Road  
Topeka, KS 66604  
(785) 271-3200  
[d.nickel@curb.kansas.gov](mailto:d.nickel@curb.kansas.gov)  
[t.love@curb.kansas.gov](mailto:t.love@curb.kansas.gov)  
[j.astrab@curb.kansas.gov](mailto:j.astrab@curb.kansas.gov)

**VERIFICATION**

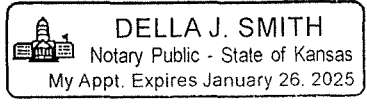
STATE OF KANSAS   )  
   )  
COUNTY OF SHAWNEE   )   ss:

I, Joseph R. Astrab, of lawful age and being first duly sworn upon my oath, state that I am an attorney for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.



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Joseph R. Astrab

SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of March, 2021.



  
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Notary Public

My Commission expires: 1/26/2025

**CERTIFICATE OF SERVICE**

21-EKCE-318-TAR


I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 25<sup>th</sup> day of March, 2021, to the following:

LISA CASTEEL, REGULATORY LEAD ANALYST  
EVERGY KANSAS CENTRAL, INC  
1200 MAIN STREET  
KANSAS CITY, MO 64105  
[Lisa.Casteel@evergy.com](mailto:Lisa.Casteel@evergy.com)

CATHRYN J. DINGES, CORPORATE COUNSEL  
EVERGY KANSAS CENTRAL, INC  
818 S KANSAS AVE  
PO BOX 889  
TOPEKA, KS 66601-0889  
[Cathy.Dinges@evergy.com](mailto:Cathy.Dinges@evergy.com)

DARRIN R. IVES, V.P. REGULATORY AFFAIRS  
EVERGY METRO, INC D/B/A EVERGY KANSAS METRO  
One Kansas City Place  
1200 Main St., 19th Floor  
Kansas City, MO 64105  
[darrin.ives@evergy.com](mailto:darrin.ives@evergy.com)

MICHAEL NEELEY, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
[m.neeley@kcc.ks.gov](mailto:m.neeley@kcc.ks.gov)

  
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Della Smith  
Senior Administrative Specialist